

BOARD OF COUNTY COMMISSIONERS  
LEON COUNTY, FLORIDA  
REGULAR MEETING  
OCTOBER 26, 2004  
**DRAFT**

The Board of County Commissioners of Leon County, Florida, met in regular session with Chairman Sauls presiding. Present were Commissioners Thael, Maloy, Winchester, Proctor, Grippa, and Rackleff. Also present were County Attorney Herb Thiele, County Administrator Parwez Alam, Deputy Clerk Bill Bogan, Jr., and Secretary Sandra C. O'Neal.

Invocation was provided by Rabbi Oirechman at the invitation of Commissioner Grippa. It was followed by the Pledge of Allegiance to the Flag.

**Awards and Presentations**

- Linda Nicholzen, Research and Development Authority Director, gave a presentation regarding an update on activities and programs at Innovation Park. Commissioner Grippa requested a workshop on Economic Development and to include Innovation Park as a participant.
- Chairman Sauls presented the attached resolution to Dorothy Inman-Johnson, representing the Capital Area Community Action Agency and David Ludder, representing the Legal Environmental Assistance Foundation, Inc., commending their efforts to promote a better understanding of health and environmental problems faced by Florida, Georgia and Alabama communities by co-sponsoring the Southeast Environmental Justice Conference: The Search for Solutions to Address Community Pollution on October 29, 2004 at the University Center.
- Chairman Sauls presented a plaque, on behalf of the Board, to Commissioner Maloy, recognizing his 12 years as a County Commissioner serving the Leon County community. Commissioner Maloy thanked his family, friends, and Commissioners for their support. He made special mention of former Leon County Commissioner Vause for his assistance throughout the years.

Commissioner Thael commended Commissioner Maloy and remarked about his work on behalf of people who conduct human services programs in the community and the disadvantaged. He wished him the best in the future.

County Administrator Alam thanked Commissioner Maloy for his consideration and support for Leon County employees throughout the years.

**Consent**

Commissioner Maloy moved, duly seconded by Commissioner Grippa and carried unanimously, 7/0, to approve Consent Agenda with the exception of Items 2 and 15, which were addressed as described:

1. Approval of Bills and Vouchers Submitted for October 26, 2004 and Pre-approval of Bills and Vouchers Submitted for October 27, 2004:

The Board approved Option 1: Approve the payment of bills and vouchers submitted for approval for October 26, 2004, and pre-approve payment of bills and vouchers for the period October 27, 2004 through November 15, 2004: \$2,195,282.57

2. Approval to Support Legislation to Provide Tax Relief to Owners of Property Damaged by the Hurricanes

This item is to request the Board's support for legislation to provide tax relief to owners of property damaged by the hurricanes.

Commissioner Grippa pulled for this item for discussion and stated that he thought the issue should come back as a County Program for homes that had been destroyed by hurricanes. He stated that the agenda item indicates support for legislation, which he supports, but he would still like to see a County Program.

Commissioner Grippa advised that he would provide information from other counties and bring back an agenda item.

Commissioner Grippa moved, duly seconded by Commissioner Rackleff and carried unanimously, 5/0 (Commissioners Thael and Proctor out of Chambers), to approve Option 1: Support legislation to provide tax relief to owners of property damaged by hurricanes and authorize the Chairman to communicate the Board's support to the County's legislative delegation.

3. Acceptance of the COPS in Schools Grant from the U.S. Department of Justice

The Board approved Options 1 and 2: 1) Accept the COPS in Schools Grant from the U. S. Department of Justice and authorize the Chairman to execute the agreement; 2) Approve the budget resolution and the attached associated budget amendment:

4. Acceptance of the Tourist Development Council FY 03/04 Third Quarter Report

The Board approved Option 1: Accept the Third Quarter, FY 2004 Status Report for the Tourist Development Council.

5. Adoption of the Policy on the Purchases of Food, Beverages, and Supplies

The Board approved Option 1: Adopt the proposed County Policy on purchases of food, beverages and supplies.

6. Request to Schedule Public Hearing on the Intent to Use the Uniform Method of Levy, Collection, and Enforcement of Non-ad Valorem Assessments for the Beech Ridge Trail Sewer Utility 2/3 Project on Tuesday, December 14, 2004 at 6:00 p.m.

The Board approved Option 1: Schedule a public hearing regarding intent to use the uniform method of levy, collection, and enforcement of non-ad valorem assessments for Beech Ridge Trail Sewer Utility 2/3 Project for December 14, 2004 at 6:00 p.m.

7. Authorization to Modify the Continuing Supply Contract for Installation and Maintenance of Thermoplastic Striping and Pavement Marking Services

The Board approved Option 1: Modify the Continuing Supply Contract for installation and maintenance of thermoplastic striping and pavement marking services to remove the requirement that the cost shall not exceed \$169,695, thereby leaving it based upon the unit bid prices for the term of the contract.

8. Adoption of Resolutions Transferring Property Rights to Florida Department of Transportation (FDOT) to Facilitate Capital Circle Northwest Widening

The Board approved Options 1, 2, and 3: 1) Adopt the attached resolutions (numbers R04-63 and R04-64) authorizing transfer of title and authorize the Chairman to execute the purchase agreements; 2) Authorize the Chairman to execute the County Deeds in favor of the Florida Department of Transportation; 3) Approve the budget amendment and resolution.

9. Acceptance of Florida Department of Environmental Protection (FDEP) Innovative Recycling Grant in the Amount of \$150,000

The Board approved Options 1 and 2: 1) Accept the FDEP Innovative Recycling Grant of \$150,000 and authorize the Chairman to execute; 2) Approve the attached resolution and budget amendment request:

10. Authorization to Terminate Agreement with Federal Prison Industries (UNICOR) for transportation and Recycling of Obsolete Electronics Equipment and Issue an Invitation

The Board approved Options 1 and 2: 1) Authorize Termination of the agreement with UNICOR for the transportation and recycling of obsolete electronic equipment; 2) Authorize staff to issue an invitation for bids to secure a replacement vendor for the transportation and recycling of obsolete electronic equipment.

11. Ratification of Emergency Purchase and Installation of Conveyor Belts at the Transfer Station in the Amount of \$ 69,800

The Board approved Option 1: Ratify the emergency purchase of two conveyor belts for the Gum Road Transfer Station compactor systems for a total of \$69,800.

12. Request to Schedule a Workshop on Animal Control-Related Issues for Tuesday, December 14, 2004

The Board approved Option 1: Schedule a workshop regarding proposed ordinance revisions and other animal control-related issues for December 14, 2004 from 3:00 p.m. through 4:00 p.m.

13. Ratification of Board Actions Taken at the September 14, 2004 Workshop on Leon County Minority/Women Business (M/WBE) Disparity Study

The Board approved Option 1: Ratify Board actions taken at the September 14, 2004 workshop on Leon County MWBE Disparity Study with action plan and schedule to implement the recommendations.

14. Approval to Issue a Request for Proposals (RFP) for Controlled Aerial Photography and Planimetric Mapping Update for the Tallahassee-Leon County Base Map

The Board approved Options 1 and 2: 1) Approve the issuance of a Request for Proposal (RFP) for controlled aerial photography and planimetric mapping of the County; 2) Authorize the County Administrator to award the contract and authorize the Board Chairman to execute a standard form contract approved as to form by the County Attorney's Office.

15. Approval to Award Bid to Barkley Security for Security Guard Services at the Courthouse and the Library

This item seeks the Board's approval of a bid award for security guard services to Barkley Security Agency, Inc.

Clarence Moses of Moses Security, 2039 North Meridian Road, appeared and indicated that he wanted to be treated fair in the award of this bid, since his bid was the low bid. He voiced concern that he attended the pre-bid conference and that no one from Barkley Security attended.

County Administrator Alam explained that the pre-bid conference was re-scheduled due to the hurricane and it was rescheduled to another date at 9:00 a.m. when normally it would be scheduled for 10:00 a.m. Mr. Alam explained that Barkley attended the pre-bid conference at 9:45 a.m. when it started at 9:00 a.m. and it was an honest mistake.

Tom Brantley, Facilities Management, explained the point award systems in the agenda request, noting that Clarence Moses Security did not provide all of the required references, nor staffing and management plan as required in the bid instructions. Therefore, Barkley Security Agency received the highest scoring and ranking overall. It was also noted that local preference was given.

Commissioner Proctor moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1: Approval to award the bid for private security guard services at the Courthouse and Library to Barkley Security Agency, Inc., for a total cost of \$197,630 over an initial 21-month period, and authorize the Chairman to execute the agreement.

16. Authorization to Transfer \$4,266 from the General Contingency Fund for the Purpose of Demolition of Two Dilapidated Structures in Accordance with the Public Nuisance Abatement Ordinance No. 96-07

The Board approved Option 1: Authorize the transfer of \$4,266 from the General Contingency Fund to demolish two (2) dilapidated structures and remove miscellaneous debris in accordance with Public Nuisance and Abatement Ordinance Number 96-07.

17. Request to Schedule the First and Only Public Hearing to Amend Section 14-41 of the Leon County Code of Laws Regarding Leon County Lot Mowing Ordinance No. 04-11 on Tuesday, November 30, 2004 at 6:00 p.m.

The Board approved Option 1: Schedule a public hearing on a proposed ordinance to amend Section 14-41 of the Leon County Code of Laws regarding Leon County Lot Mowing Ordinance Number 04-11 for Tuesday, November 30, 2004 at 6:00 p.m.

18. Acceptance of Conservation Easement for the Faraway Farms Project

The Board approved Option 1: Approve and accept for recording the conservation easement for the Faraway Farm LP (North) project.

19. Request to Schedule Two Public Hearings on a Proposed Ordinance Amending the Land Development Code to Clarify Allowable Density in the Residential Preservation Zoning District for November 30, 2004 and December 14, 2004 at 6:00 p.m.

The Board approved Option 1: Schedule public hearings on a proposed ordinance amending the Land Development Regulations to provide clarification regarding allowable density in the residential preservation zoning district for November 30, 2004 and December 14, 2004 at 6:00 p.m.

20. Request to Approve Travel Expenses for Commissioner Rackleff to Attend the Florida Association of Counties (FAC) Transportation and Administration Subcommittee Meeting in Orlando, Florida on November 5, 2004

The Board approved Option 1: Approve travel expenses.

**General Business**

21. Consideration of Funding Request in the Amount of \$2,000 for After School Jazz Jam Program

Commissioner Grippa moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1: Approve the mid-year funding request of \$2,000 for the After School Jazz Jams Program.

22. Ratification of Board Action Taken at the October 26, 2004 Workshop on Selection of Provider for New 9-1-1 System

Commissioner Thael moved and was duly seconded by Commissioner Rackleff to approve Option 1: Ratify the Board actions taken at the October 26, 2004, workshop on procurement of a new 9-1-1 System for Leon County:

- Authorize the County Administrator to negotiate a contract with Sprint, for the model E-911 solution that was proposed in Sprint's RFP response, for an initial term of two years (with an option for annual extensions for up to seven years), with contract provisions for a) transition of this system to a Joint County/City Dispatch Center; b) termination of this contract without penalty to the County upon 120

days written notice and, c) leasing of Positron equipment, and agenda this contract for the Board's approval at their regularly scheduled meeting on November 16, 2004;

- Should sufficient progress in crafting the above contract with Sprint not be made by November 3, 2004, as determined by the County Administrator, authorize staff to terminate negotiations with Sprint and commence similar negotiations with CM;
- Direct the County Administrator to schedule a joint County/City workshop on the creation of a Joint Dispatch Center for February 8, 2005 from 2:30 p.m. to 4:00 p.m.
- Direct staff to provide additional information on a proposed statewide 211 system

The motion on the floor carried unanimously, 7/0.

*(Commissioner Proctor noted that he was not able to attend this workshop and had a speaking engagement. After the speaking engagement, Commissioner Proctor learned of the recent death of Professor Eaton and went to his home to pay respects. Commissioner Proctor explained that he was able to speak to some of the representatives of the companies submitting proposals for the new 9-1-1 system.)*

23. Continued Implementation of the Financing Plan for the Bank of America (BOA) and Courthouse Renovations

This agenda item is a summative report on the financing plan approved by the Board for the purchase and renovations of the Bank of America (BOA) and Courthouse, and seeks approval to continue implementation of the financing plan by engaging the services of a site civil engineer to make recommendations regarding the subdivision of the Easterwood/Weems property, and obtain related hypothetical appraisals and site survey.

County Administrator Alam explained that the funding of the BOA was partially to come from the sale of the Easterwood/Weems property (estimated sale \$6.1 million) and the sale of the Traffic Court Building on Thomasville Road, which will eventually be sold. He pointed out that if the property is not sold, the funding would have to be dealt with during the budget process.

The following speakers appeared and voiced opposition to the sell of the Easterwood/Weems property. Citizens indicated that bicyclists use the area on a regular basis since it is connected to Tom Brown Park and that it has even been used by the British Olympics for training. Other points

made by speakers were: The area is in park land and should remain so; it is part of Tom Brown Park; only a portion of the property could be used once easements and rights of way are considered; inappropriate area for construction of apartments; concerns about water runoff from construction resulting in pollution to the lake; bicycling businesses rely on cyclists and the trails on the subject property draw cyclists from all areas.

Dwayne Huffman, 4732 Dauphine Blvd.

Dolly Blunt, 3901 Cates Avenue

Brendan Draper, 1518 Chowkeebin Nene

Larry Wolfe, 2801 Starmount Lane

Hillary Seminick, 420 E. Park Ave, #11

John Webb, 3789 Overlook Drive

Commissioner Rackleff stated that at a time when the County actively pursues open space, green space, and parklands, it is not sensible to sell off the property. He also mentioned that selling the property which result in construction which would contribute to the water runoff and pollution in Lake Lafayette. Commissioner Rackleff suggested that there is an inflated value put on the Easterwood/Weems property and it is not suitable for housing since there is a firing range and animal shelter adjacent to it. He urged the Board to not pursue the sale of the property since it was considered part of Tom Brown Park. He referred to the agenda request and suggested that the money in the BOA enterprise fund earned from operating income on the property was adequate to complete phase one and enough courthouse renovation funding to complete approximately two years of work at the Courthouse.

**Commissioner Rackleff moved and was duly seconded by Commissioner Thael to approve Option 4: Do not direct staff to obtain the services of a site civil engineer.**

Commissioner Grippa stated that if the subject property is not part of Tom Brown Park and the motion on the floor passes, then the Board should take action as soon as possible to incorporate the property into Tom Brown Park.

**Commissioner Rackleff amended his motion, which was accepted, to seek an interlocal agreement with the City of Tallahassee to incorporate the Easterwood/Weems property into Tom Brown Park.**



Commissioner Grippa engaged in discussion regarding the background on this issue. He stated that in 2003, the Board took action to sell 80 acres adjacent to Tom Brown Park (Easterwood/Weems property) to help pay for the BOA building and this was a key component in the purchase. Commissioner Grippa agreed that the property should not be sold and suggested getting rid of the BOA building.

**Commissioner Grippa moved a substitute motion to move forward with an appraisal and the sale of the BOA building, and to seek an interlocal agreement with the City of Tallahassee to incorporate the Easterwood/Weems property into Tom Brown Park. Commissioner Proctor seconded the amended motion, with a condition that the tenants in the BOA building have a two-year right to remain to allow time to find a place to move.**

Commissioner Thaell pointed out that the current Courthouse building was wholly inadequate for growth of County government. He stated that the Easterwood/Weems is not worth \$6 million with the ravines and easements and it should remain as part of the park.

Commissioner Proctor stated for the record, that the reason the Bank of America Building was purchased was because of proximity to the Courthouse. He suggested that the building be sold because too much money will have to be spent to bring the building up to speed.

Commissioner Grippa stated that the BOA building cost \$15 million to purchase and \$15 million will have to be put into it, which is exorbitant. He wanted to know if the Easterwood/Weems property is not sold, what could be cut in the budget to obtain the \$6 million. County Administrator Alam responded that over the next two to three years, the County would budget it through the regular budget process like they do for other expenditures (which are based on growth in property tax and average economic conditions). Commissioner Grippa suggested utilizing the BOA building for leases and preserve the park.

During the discussion, comments were made about cost and concurrency of Woodville Highway. Commissioner Thaell pointed out that he wanted to respond to comments made about this and stated, for the record, that he has consistently concurred that Wakulla County should not dump its traffic on Woodville Highway without paying the County some cost for the impact on the roadway.

**The substitute motion failed 3 – 4 (Commissioners Winchester, Proctor, and Grippa voted in opposition).**

**Commissioner Grippa moved a substitute motion to go with the original plan as stated in the agenda item, which is to purchase the BOA and to sell Easterwood/Weems property.**

(It was clarified that the original motion on the floor is to not sell the Easterwood/Weems property, do not obtain services of civil engineer, and to seek an interlocal agreement with the City of Tallahassee to pursue incorporating the Easterwood/Weems property into Tom Brown Park.)

**Commissioner Grippa offered a substitute motion to go with staff's recommendation and the original financing plan (until staff can locate a way to replace the \$6 million and put pressure on individuals to look for additional funds) which involves the sale of the Easterwood/Weems property.**

Commissioner Thael asked if there were any appraisals done on the property, how the \$6 million figure was derived, and what was the customary procedure for appraising land that government is interested in selling. Tom Brantley, Facilities Management Director, explained that previously, staff had discussions with Commercial Real Estate Brokers, and customarily staff would request from the Board budgetary authority to pursue appraisals, although statutorily it depends on the estimated value of the property. **Commissioner Grippa stated that his substitute motion includes doing all the customary things.**

Mr. Brantley gave brief inventory of the 80 acres at the Easterwood area: There are 25 acres in lease, 8 acres occupied by road rights of way; this leaves approximately 47 acres; out of that, there are easements for a number of utilities; all the easements on the property involve approximately 20 acres; that leaves a net of 27 acres. Mr. Brantley explained that even though there is an encumbrance on the land, it may be sellable and useful for permitting purposes for preservation for green space. He advised that it would count as green space credit towards development on the net land and that is why staff is seeking a site civil engineer who could advise about the potential of the property upon its sell. He stated that the recommendation for the Board is to have the property appraised so they know the value.

**The substitute motion is options 1 and 2, which includes looking at bike trails and land.**

**The substitute motion failed 3 – 4 (Commissioners Thael, Rackleff, Maloy, and Winchester voted in opposition).**

**The original motion on the floor (to not obtain an engineer and survey, and seek an interlocal agreement with the City) carried 5 – 2**

**(Commissioners Sauls and Grippa voted in opposition; Commissioner Grippa then changed his vote to reflect the affirmative.** He stated that he supports preserving the Easterwood/Weems property but he did want to get out of purchasing the BOA building.) Commissioner Proctor stated that he also supports preserving the Easterwood/Weems property.

*The Board then entered discussion regarding Item 26.*

24. Consideration of Voluntary Annexation of Property Located at 2580 Ox Bottom Road

This agenda item involves consideration of a proposed annexation petition by the owner of approximately 3.4 acres located at the 2580 Ox Bottom Road.

Charles Gardner, attorney, representing the owner, responded to the Board's inquiries and noted that the proposal was in the Lake Lafayette Basin.

Commissioner Maloy moved, duly seconded by Commissioner Rackleff to approve Option 1: Do not object to the voluntary annexation by the City of the property located at 2580 Ox Bottom Road. The motion carried 4 – 1 (Commissioner Grippa voted in opposition, and Commissioners Maloy and Winchester out of Chambers). (Later in the meeting, Commissioners Maloy and Winchester requested that their vote on this item reflect the affirmative.)

25. Consideration of Conveyance of County-owned Bluebird Road Property for Habitat for Humanity

This agenda item requests Board consideration of a resolution authorizing conveyance to Habitat for Humanity of the uplands portion of County property acquired for the Lake Munson Restoration Project (Bluebird Road Property).

Commissioner Grippa moved and was duly seconded by Commissioner Rackleff to approve Option 1: Adopt the attached resolution R04-transferring title of the Bluebird Road site to Habitat for Humanity, and direct staff to complete subdivision of the site.

County Attorney Thiele explained that this is not a public hearing but an advertisement was run, and staff will be bringing back a process on the disposition of public property.

The motion carried unanimously, 4/0 (Commissioners Maloy, Thael, and Winchester were out of Chambers). (Later in the meeting, Commissioners Maloy, Thael, and Winchester requested that their votes reflect the affirmative.)

*The Board then entered discussion under "Citizens to Be Heard."*

**Public Hearings, 6:00 p.m.**

26. First and Only Public Hearing Regarding the Pre-application for Authorization of a Water Service Area for the Properties on the East Side Fronting Thomasville Road near Chiles High School

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 7/0, to approve Option 1: Conduct the public hearing and authorize a water service area for properties fronting on the east side of Thomasville Road in the vicinity of Chiles High School.

27. First and Only Public Hearing on the Proposed Villas at Pine Ridge Residential Subdivision Type "C" Site and Development Plan

Pursuant to legal advertisement, a public hearing was conducted:

Charles Hargraves, 1798 Thomasville Road, appeared representing Jack Green, the developer in the project. This is a proposal for a 111 lot subdivision in and around Center Drive.

Commissioner Rackleff suggested that the developer consider a better subdivision plan than the one before the Board. He pointed out that the only way in or out of the subdivision is one street which is tailor-made for high speed traffic. Commissioner Rackleff stated that he has talked to Planning staff and GEM staff about a grid system with 8 or more small blocks, with narrower streets and alleys which would create more of a neighborhood where there are cul de sacs and would promote walking and civic engagement. He stated that he is aware that the Subdivision Requirements do not encourage that, but he would like to hear from developers and urged them to contact him.

Carolyn Bibbler, 1913 Sherwood Drive, representing the developer, stated that they doing some interconnections to the western property. To the east portion, there is a sink hole area so a road could not be put in.

Carlos Martinez, 806 Westway Road, stated that he hopes the development will have a way to control pedestrian traffic in a safe way.

He supported cul de sacs and the buffer and pointed out that the developer has been responsive to the neighbors.

Jacque Myers, Tri-M-Stables, stated that the subject property is in her front yard and she would like to be assured that she has access to her property during development. She explained that there was an issue about a five-inch movement of a line; noting that she has a horse trailer and large truck to get through the easement. Ms. Myers stated that she would like to see 3-way or 4-way stop intersections.

Commissioner Thaeli wanted to know if there was some way to accommodate the speaker. David McDevitt, GEM, responded that there are several other encroachments on the parcel and he will be working with the applicant through a series of boundary settlements that will occur after approval. This will be settled prior to final planning. Mr. McDevitt explained that the developer was accommodating and there was a prescriptive easement to Ms. Myers property and they did make sure that she has public access to her property.

Another issue noted by Mr. McDevitt was that subsequent to submitting this agenda item, a change in circumstances has occurred. Staff has received notification from the City of Tallahassee that the applicant intends to request a voluntary annexation of his property. He anticipates the agenda item will be brought back on November 30, 2004. Mr. McDevitt requested that the Board place a condition on the approval, that all subsequent environmental permitting, all the way through to as-built stage of environmental permitting occur with the City of Tallahassee, that the applicant not begin permitting with the County until after there is some resolution of the voluntary annexation; and if that proceeds, if the county does not object, that it proceed with the city environmental permitting process.

Commissioner Proctor inquired if the applicant knew what the W/MBE participation was in the development and would like some assurance that there would be some participation. Ms. Bibler explained that she was not aware of the participation and would relay the message to the developer.

Commissioner Proctor talked about MBE participation and felt enough W/MBE money was not being distributed. He stated that if there is a plan, he would like to review it. Ms. Bibler responded that she would check.

County Attorney Thiele explained that the County's W/MBE policy is not a criterion of a site plan.

Commissioner Thaeli moved and was duly seconded by Commissioner Grippa to approve Option 1: Conduct the first and only public hearing and

approve the proposed Type C Site and Development Plan for the proposed Villas at Pine Ridge Residential Subdivision based on the findings of fact and conclusions of law set forth in the recommendation of the DRC. The motion carried 5 – 1 (Commissioner Proctor voted in opposition and Commissioner Winchester out of Chambers). The Board advised that the motion includes permitting with the City of Tallahassee.

28. Second and Final Public Hearing on a Proposed Ordinance Amending the Land Development Regulations to Delete “Commercial Sports” as a Permitted Use in the Urban Fringe and Lake Talquin Recreation Urban Fringe Zoning Districts

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Thael moved, duly seconded by Commissioner Maloy and carried unanimously, 6/0 (Commissioner Winchester out of Chambers), to approve Option 1: Conduct the second and final public hearing and adopt the proposed Leon County Ordinance Number 04:38 amending the Land Development Regulations to delete “commercial sports” as a permitted use in the Urban Fringe and Lake Talquin Recreation Urban Fringe zoning districts. *(Later in the meeting Commissioner Winchester requested that his vote reflect the affirmative).* See attached Ordinance Number 04-38:

29. Second and Final Public Hearing on a Proposed Amendment to the Land Development Regulations to Allow Multifamily Housing within the Commercial Parkway Zoning District

Pursuant to legal advertisement, a public hearing was conducted.

Commissioner Maloy moved, duly seconded by Commissioner Thael to approve Option 1: Conduct the second and final public hearing and adopt the attached Ordinance Number 04-39 amending the land development regulations to allow multifamily housing within the Commercial Parkway zoning district based on the findings of the Tallahassee-Leon County Planning Commission.

Commissioner Thael wanted to see different areas where there was multi-family along with commercial and architecturally aligned so they did not look like a strip mall similar to the concept used in Chattanooga, Tennessee. He requested that staff bring back architectural standards for residential and commercial office components.

The motion carried unanimously, 7/0. See attached Leon County Ordinance Number 04-39:

Commissioner Proctor inquired if the Planning Department had any African-American on staff. Mr. Tedder stated that there were four and introduced Sherrie Baker, Senior Planner, who started with staff last week

30. Continuation of a First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map Rezoning Approximately 107-Acre Parcel, Located on the West Side of North Monroe Street, on the East Side of Old Bainbridge Road and North of Perkins Road, from Lake Preservation to the PUD Zoning District

Pursuant to legal advertisement, a public hearing was conducted.

County Attorney Thiele explained for the record, that yesterday afternoon, the Board received the report from the special council that legal staff was directed to retain (from October 12, 2004 Board meeting) which was given to the Board secretary for the record.

(At the October 12 meeting, Commissioners were instructed to not discuss the issue or open emails since it was a quasi judicial issue.)

Commissioner Grippa provided copies of all the parties that have contacted his office including emails and discussions for the public to review regarding this issue pursuant to direction on October 12, 2004.

Chairman Sauls encouraged speakers to not speak again on this item if they spoke on October 12<sup>th</sup> unless they had different information.

Chairman Sauls circulated three emails that she opened and explained that she did not know that they dealt with Summerfield PUD. She also advised that yesterday at the MPO meeting, Tom Taylor told her that the Summerfield PUD issue could be referred to the Florida Conflict Resolution and mediation was an option. Commissioner Grippa disclosed that he too heard the comments from Mr. Taylor. Chairman Sauls also disclosed that yesterday afternoon, a plant was delivered to her office with a card from Jeff Phipps, and flowers and a frog were delivered today with a note from L.J.

Commissioner Winchester noted that he was directed by the Board to meet with the developers and their attorneys. He explained that he met last Friday and the main issue continues to be the suitability and impact of apartments in the proposed PUD development.

Commissioner Rackleff reported that he received approximately 10 emails and he archived them.

County Attorney Thiele advised that he is provided a package that Commissioner Grippa prepared including emails and letters on the subject matter to the clerk for the record. Mr. Thiele announced that today Commissioners received a letter from A Thousands Friends of Florida and an email from Charles Gardner, representative of the subject property owner, on the subject matter and the items will be provided to the Clerk for the record.

Commissioner Thael explained that he received some questions from Matt Oresco and document from George E. Lewis, II, and received many emails, which his Aide responded to, and Commissioner Thael was not privy to. He also received an analysis of the PUD concept plan and analysis.

Commissioner Maloy announced that Missy Patton came to see him today briefly and voiced concern that the review from the independent attorney was not attached to the agenda item. She wrote him a letter but he did not open it and has not opened emails on the subject pursuant to Board direction on October 12, 2004.

County Administrator Alam advised that GEM staff received a letter was AJTV Architectural and Engineering Firm which included a letter to Bryan Waterman, Department of Community Affairs.

Mr. Thiele commended Attorney Sylvia Alderman for her assistance and turn-around time for providing the analysis.

The following citizens appeared:

Charles Gardner, Attorney representing the Sellars Family, stated that whether or not an environmental analysis should be required in this concept plan. Staff has been consistent that one was not needed and the law indicates that it is not mandatory. He stated that the Board has the option to say whether or not they want an environmental analysis. Mr. Gardner stated that it was hard to do an environmental analysis on a concept where there is no actual lot lines and buildings to show what is actually being impacted. He stated that the time to do that is when the final plan is reviewed and staff has the experience and knowledge to do that. He reminded the Board that this is a rezoning of property and it is not a site plan, the developer is at risk since he may or may not be able to accomplish what he plans to do, but the zoning has to be in place first. He announced that he sent an email this afternoon and circulated it for the record which states that the access onto Old Bainbridge Road is not an issue since the applicant is willing to construct a cul de sac. It also explains that the parties met in good faith with Commissioner Winchester but were not successful. Mr. Gardner added that this is a commitment to



an amendment to the PUD tonight, to treat basin SR-1 which is the basin that has the berm in it, and to go with open basin, lake protection standards.

Andres Byrne, 329 Lake Ridge Drive, counsel representing Arbor Properties, stated that his client met with Commissioner Winchester in good faith and thought that they reached a compromise they could live with, but Commissioner Winchester could not support it. Mr. Byrne stated that he is agreeable to all of the conditions placed on the favorable recommendations by the Planning Commission including that there be no access to Old Bainbridge Road. He also agreed that all lake protection land use standards will apply to basin SR-1 as if it were an open basin. Notwithstanding to the recently added berm, he will abide by whatever the relevant government entities require them to do with the berm, either leave it or remove it. He urged the Board to approve the rezoning request.

Commissioner Winchester explained that other items were discussed with the parties ranging from space ration, walkability of the site, landscaping, building height, visual impact. He distributed proposed conditions which were talked about at the meeting and some additional things and his intent is that these items would be a condition of the approval of the development order. Mr. Thiele stated that the material that Commissioner Winchester distributed is not the application before the Board; the application as recommended by the Planning Commission is before the Board.

C. C. Sellers, 8179 Glenwood Drive, stated that he represents the Sellers Family on this matter, and stated that his mother wanted a development that would enhance the surrounding properties. He urged the Board to support the project.

Paul Earnhart, P. O. Box 3210, stated that he owns property adjoining the subject property and referenced an email National Association of Realtors suggesting that people would like to live in areas where there are sidewalks and places to walk and easy access to highways and within 45 minutes to work.

Jeff Phipps, 500 Orchard Pond Road, stated that it is possible that the subject property and surrounding areas could flood like it did in 1966. He pointed out how his property would be adversely impacted if flooding occurs.

Pat Wright, 4480 Cool Emerald Drive, Lakeside Subdivision, member of the Board of Directors of the Home Owners Association, advised that he was opposed to the apartments and additional traffic on North Monroe

Street and Old Bainbridge Road. He stated that the development should conform to the existing neighborhood.

Joanne Kowal, 4871 Old Bainbridge Road, gave some background information of the area and the sinkholes. She stated that Lake Jackson Basin was riddled with karst and stated that the Environmental Impact Analysis (EIA) should be completed prior to the approval of the conceptual plan since there are many unknowns.

Olin Granthum, 2600 Lucerne Drive, Lake Breeze Subdivision, stated that a nice upscale subdivision was needed in the area.

Jane Quinton, 1916 Hidden Valley Road, representing Tallahassee Garden Club, concerned about preserving patriarch oaks and wanted to promote canopy trees.

Alan Niedoroda, 6000 Miller Landing Road, showed an aerial photograph of the subject area, voiced concern about additional water runoff and urged the Board to reject the proposed PUD.

C. B. Subrahmanyam, 1257 Cornerstone Lane, provided his comments in response to Attorney Alderman's conclusions. He went through the items and explained his responses (as shown in the correspondence) and urged the Board to deny the request.

Marion Nimis, 2105 Miller Landing Road, appeared and stated that, if the PUD is approved, the Board should carefully monitor and control the development.

Leah Ellington, 789 Livingston Court, voiced opposition to the PUD.

C. Tomoka Brady, 5885 Old Bainbridge Road, talked about trash on the shoreline, opposed

Bob Pannell, 2801 Glennis Court, representing Gwyndale Neighborhood, appeared and expressed opposition to the proposed development.

Matt Aresco, 754 Livingston Court, appeared and expressed opposition to the project.

Ann Bidlingmaier, 1920 Harriett Drive, expressed opposition to the PUD and suggested that an environmental analysis should be done before rezoning. She also circulated an article regarding environmental issues.

Stan Derzypolski, 4345 Johnson View Drive, indicated concern about the density of the project and suggesting compromising.

Becky Subrahmanyam, 1257 Cornerstone Lane, expressed opposition and referred to her written comments which were presented to the Board involving the LDRs (land development regulations). A copy of Mrs. Subrahmanyam's comments were submitted to the Clerk for the record.

Nancy McGrath, 3022 Southshore Circle, read email from Dr. Sherwood (Woody) Wise, urging the Board to continue providing Lake Protection. Ms. McGrath also spoke about traffic concurrency and reported that north U.S. 27 would not be expanded for decades.

Kate Calvin, 1918 Longview Drive, suggested that the existing area has affordable housing, and additional affordable housing is not necessary. She indicated that many of the speakers in favor of the PUD are on the staff of Arbor Properties.

Bruce Ryan, 1932 Queenswood Drive, stated that Lake Jackson is an asset to the County and spoke about the "view shed" which is the view of the lake and brings eco-tourism to the County. He indicated that the apartments would that is seen on the lake an adverse affect to the lake and urged the Board to deny the PUD.

Commissioner Proctor referred comments from a speaker who referred to a statement about NAACP about Arbor Properties. Commissioner Proctor clarified that NAACP is not employed by Arbor Properties, is not speaking for Arbor Properties, and is not paid by Arbor Properties.

Victor L. Moore, Sr., 32264 Brewster Highway, Midway, FL., spoke in favor of new homes and apartments in the subject area.

Maria G. Carona, 8452 Sandlewood Drive, W. stated that Tallahassee is growing and new subdivisions are necessary.

Keli Thorn, 2750 Old St. Augustine Road, remarked that the project is a good idea and favored the apartments in the subject area.

Michael Brezin, 1501 N. Randolph Circle, referred to comments from the last meeting suggesting that opposition to the project might be racially motivated. He stated that the existing area is racially diversified and that it is not the reason there is opposition to the PUD. Mr. Brezin stated that the murkiness of the legal issues is a paramount issue and urged the Board to deny the rezoning thereby protecting the canopy road, the lake, and providing public safety.

Remigio Cantu, 8452 Sandlewood Drive, spoke in favor of the new development and stated that he plans to move to the area if it is approved.

Dan Collins, 2750 Old St. Augustine Road, indicated that Tallahassee needs to move forward with progress and supported the rezoning.

Tyler Macmillan, 741 Litchfield Road, referred to the information submitted by Ms. Alderman, the counsel that was retained to conduct an analysis. He explained the process that staff went through suggesting that the first recommendation was denial then other staff suggested that a variance could be granted. Mr. Macmillan stated that Ms. Alderman's report indicated that a variance could not be available. He stated that he is not opposed to development at the subject site but that it should be appropriate development which is single family lots.

Lilly Thames, 199 Mill Branch, appeared and stated that the citizens who are in favor of the development are a diverse group of people. She asked citizens in the audience to stand who favored the development and approximately 30-40 citizens stood.

George E. Lewis, II, 203 North Gadsden Street, #6, referred to his written material which was circulated and listed some of the following reasons he felt the PUD should be denied: premature; lacks Environmental Impact Analysis; DRC did not process the application properly – should have been considered at a regular meeting; Planning Commission meeting did not comply with the procedural for quasi-judicial proceedings; must be published at least 15 days before the scheduled action by the Planning Commission; due process has not been afforded in this case. Mr. Lewis urged the Board to remand this back to the DRC to process it under whatever conditions the Board intends to impose upon it.

Tom Nelson, 642 Doris Drive, stated that he is not opposed to development but he wants to ensure that lake protection is provided. He read a letter to the Board from Charles Patterson, Executive Director, Thousand Friends of Florida, indicating concern that the Board is being asked to approve the Summerfield PUD plans prior to FDEP Dredge and fill water issue being properly vetted and that certain development assumptions may have been incorrectly stated, namely, that the use of the closed basin concept within the greater Lake Jackson and its relationship to the dredge and fill actions now under review and other issues. The letter requested that the Board not take action upon the issue today, but that the lake protection rationale be revisited to ensure that there is no further degradation of Lake Jackson.

Richard Reeves, 5314 Pimlico, representing applicant, explained that the Comprehensive Plan includes one of the most stringent environmental documents in the state and here is a developer who has worked with staff and met all codes and requirements, and is at the final step of the

rezoning portion and there is a movement to do away with that. He indicated frustration after responding to issues raised by individuals and then other issues are brought forward. Mr. Reeves requested that the Board vote favorably on the issue.

County Attorney Thiele requested clarification and stated that based on his understanding upon what the parties discussed this evening, there are two changes to the application: 1) the applicant has agreed to not seek a canopy cut of any kind and 2) the development will be developed in accordance with lake protection zoning whether or not the berm is removed (in that pod). Mr. Reeves responded in the affirmative.

Mr. Thiele stated that the public hearing portion is now closed.

Commissioner Winchester moved and was duly seconded by Commissioner Rackleff to approve Option 4: Conduct the public hearing and do not adopt the proposed ordinance amending the Official Zoning Map; retain the present LP, Lake Protection zoning district, based upon the findings made on the record at the public hearing tonight and the public hearing on Oct 12, 2004, and consistent with Zone A and Zone B requirements.

Commissioner Winchester stated that he felt that this was a worthy project but that it was in the wrong location. He read a portion of a letter that was received today which indicated that it was inappropriate to purchase property across the highway (Pelham property) to prevent development and now the Board was considering approving development which allows, among other things, three-story apartments across from Lake Jackson. Commissioner Winchester indicated that some 500 units were not appropriate on the 107-acre property.

Commissioner Grippa inquired of staff if an EIA was needed for a conceptual PUD. John Kraynak, GEM, responded that staff has reviewed a lot of information regarding the EIA application including checking stormwater and flood planes, and it was staff's opinion that they do not need to have a completed approved Environmental Impact Analysis for a conceptual PUD. Mr. Kraynak indicated that it involves more of a cleanup type thing and can be accomplished at the final PUD and they could move forward on the conceptual standpoint. He confirmed that they would need a final EIA before the final PUD. County Attorney Thiele opined that this was an accurate statement made by Mr. Kraynak.

Commissioner Grippa moved a substitute motion, seconded by Commissioner Proctor to approve Options 1 and 2, with the caveat that the open basin remain lake protection, that there is no canopy road cut, and the other recommendations by the Planning Commission and DRC

are followed through completely prior to any final approval of this and that there be a final Environmental Impact Assessment (EIA) at final PUD approval:

Option 1: Conduct the first and only public hearing and adopt the proposed Ordinance, Leon County Ordinance Number 04- , amending the Official Zoning Map changing the zoning of approximately 107 acres from the LP zoning district to a PUD zoning district, based upon the findings and recommendation of the Planning Commission as set out in this agenda item;

Option 2: Adopt the applicant's proposed concept plan, subject to those conditions as recommended by the Planning Commission, based upon the findings and recommendations of the Planning Commission set out in this agenda item.

Commissioner Thaelle referenced the document presented by outside counsel, Sylvia Alderman. He stated that it is not known what the maximum allowable densities and intensities are in the PUD and suggested that the item go back through the DRC process.

Commissioner Proctor stated for the record that he believes the berm should remain in place since it benefits the lake.

Chairman Sauls asked the County Attorney if the motion on the floor was consistent with the outside attorney's findings. Mr. Thiele stated that it was, with one exception; the County Attorney's opinion is that the County is not granting a variance but is requiring the environmental impact assessment to happen at the final PUD approval. He stated that Ms. Alderman's (outside counsel) issue was that the County does not have the authority to grant a variance. Mr. Thiele opined that a variance is not being granted but are indicating that the County will require it at the final PUD rather than at concept plan. (The Chairman clarified that this is part of the motion, that it be completed prior to the final PUD.) Mr. Thiele opined that this was in accord with the Land Development Regulations.

Sylvia Alderman, attorney who was retained to conduct an analysis, explained that the bottom line on the environmental assessment is that staff had enough information to make the recommendation that they did and that it was acceptable. She stated that it is true that the County does not have the authority to grant a variance, however there is language in the ordinance itself that allows staff to accept something less than a complete Environmental Assessment.

Gary Johnson, Growth and Environmental Management, advised that staff had enough information on the environmental impact analysis for the rezoning request before the Board.

Chairman Sauls asked if the County could require that the final review and approval come back before the Board for site development plan and Mr. Thiele answered in the affirmative. She also suggested, if the motion passes, that staff look at a Type D buffer on the multi-family component which provides for a more intense buffer than Type B. Commissioner Grippa amended his substitute motion to include a Type D buffer.

Chairman Sauls inquired about the site plan coming back to the Board and Commissioner Grippa stated that he did not want the entire project to come back and be discussed again but he does not mind if the Board takes public testimony on whether the applicant had complied with Board direction.

Commissioner Grippa amended his substitute motion to take public testimony or rule on whether the applicant and staff had complied with the Board's direction (but not on the entire project).

Commissioner Winchester distributed a list of proposed conditions of approval of development order, which included open space, Canopy Road access, berm, enhanced landscape plan, apartments and non-residential uses, final site plan and review, walkability, and traffic mitigation. He recommended that these issues be part of the amendments.

Commissioner Grippa suggested that this was staff's responsibility and proposed that Commissioner Winchester continue to work with the developer on the issues. Commissioner Winchester stated that during negotiations with the developer they basically agreed in principle with some of the items, but he would like to see these as parameters to be negotiated in the PUD. Commissioner Grippa stated that some of the items have already been worked out and he feels that some of the others could be worked out with the developer over a period of time.

Commissioner Grippa clarified that his motion is to approve the PUD, that it come back so the Board can ensure that it meets every criteria, not to redo the site plan here.

Commissioner Proctor stated that he could not vote for the project unless it included W/MBE participation. Mr. Thiele explained that this is a rezoning, not a County project. Commissioner Grippa amended his motion to include the County's W/MBE requirement in the plan. The developer indicated that he would attach a W/MBE plan.

Chairman Sauls clarified the substitute motion on the floor: To approve Options 1 and 2 and the final PUD approval and site plan come back before this Board to ensure that it complies with the law; that it include a Type D buffer (rather than Type B), and a W/MBE plan be attached.

The substitute motion, as amended, carried 4 – 3 (Commissioners Rackleff, Thael, and Winchester voted in opposition.

See attached Leon County Ordinance Number 04-40:

*The Board then entered discussion of Item 24.*

#### **Citizens to be Heard on Non-Agendaed Items (6-minute limit)**

Deborah York, 4850 Old Indian Trail, appeared and explained that she appeared before the Board a few weeks ago on this same issue and she is still frustrated and confused about the problems regarding permits, septic tanks, lack of utilities and other issues involving her neighbor, Mr. Shaw. Ms. York pointed out that she is trying to build a barn for her horses but to feel safe; she will have to build a privacy fence, and asked the Board to waive the permit fee. She also requested that staff run a criminal report on Mr. Shaw.

Gary Johnson, GEM, provided a synopsis of the events regarding Mr. Shaw's building permit. He explained that Mr. Shaw came in the office in August and has until February to come into compliance with all the building codes.

Commissioner Thael moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Proctor was out of Chambers), to waive the rules of procedure so the Board might consider Ms. York's request.

County Attorney Thiele stated that he would look at the issue and send a report to the Board in memorandum form and agenda the item if necessary.

Commissioner Thael moved, duly seconded by Commissioner Grippa and carried unanimously, 6/0 (Commissioner Proctor was out of Chambers), to waive the permit fee and direct staff to obtain a criminal background report.

#### **Discussion Items by Commissioners**



31. Status Report on City/County Coordination of Stormwater Management and Proposal to Protect Water Quality Through Watershed Protection

Commissioner Grippa moved and was duly seconded by Commissioner Rackleff to approve Option 1: Accept report, direct the County Attorney to work with City staff to format the language of this agreement as an Interlocal Agreement, and empower the Chair to sign the agreement on behalf of Leon County. The motion carried unanimously, 6/0 (Commissioner Proctor was out of Chambers).

Item 32

ADD-ON: Payment of Department of Juvenile Justice Invoice

County Administrator Alam summarized the agenda item and explained that the County is currently part of a law suit involving the County's requirement to pay the Department of Justice \$1.4 million. (At the September 30, 2004 hearing the Court rejected the request for temporary injunction from the Counties to make the payment. A hearing is scheduled for November 9, 2004.) Recently a letter was received from Department of Juvenile Justice Secretary requesting the County may the requested payment; "if a county has not made the appropriate payment then the Chief Financial Officer shall withhold from such county a portion of any state funds which the County may be entitled to the difference of the amount remitted and the amount required to be remitted." The letter indicated that the Secretary is concerned about having adequate resources to fund the department and may be forced to drastically reduce detention services. The agenda explained that according to the Florida Association of Counties Attorney, to date none of the named plaintiff counties in the law suit have made a payment.

Commissioner Rackleff moved, duly seconded by Commissioner Thael and carried unanimously, 6/0 (Commissioner Proctor was out of Chambers), to approve Option 2: Do not authorize payment of the Department of Juvenile Justice invoices.

**County Administrator**

Requested the Board schedule a joint City/County Workshop for presentation by the River City Corporation and Mayor of Chattanooga on Chattanooga's Greenway Trail. The workshop is scheduled for Wednesday, November 17<sup>th</sup>.

**Discussion Items by Commissioners**

**Commissioner Grippa:**

- a. Requested that staff look into whether or not there was a permitting violation for a car show held on Bannerman Road. Commissioner Grippa moved to direct staff to bring back an agenda item and provide information on how places like bars and bottle clubs area permitted and determine if the Board regulates these types of establishments. The motion failed for lack of a second. The County Attorney advised that he would provide information in a memorandum.

*Commissioner Proctor moved, duly seconded by Commissioner Thaelle and carried 6 – 1 (Commissioner Rackleff voted in opposition), to extend the meeting to 11:15 p.m.*

- b. Commissioner Grippa moved and was duly seconded by Commissioner Thaelle to agenda an item regarding definition of “mother-in-law” suite, and the building restrictions, such as detached versus attached suite and whether kitchen facilities are allowed. The motion carried unanimously.
- c. Requested the County Attorney to look at Commissioners' websites regarding links to non-governmental entities and have violations cleaned up.

**Commissioner Proctor:**

- a. Requested a posthumous resolution for Dr. James Eaton, retired FAMU Professor, and Curator of the Florida Black Archives. Commissioner Proctor will present it at the memorial service.
- b. Requested a resolution for Danny Harris from the Fat Cat Players.
- c. Requested the County Attorney look into an ordinance requiring restaurants to have a cover on straws. The County Attorney will provide information in a memorandum.
- d. Announced that he would be on the Tom Joyner Show, Channel 96.1 at 8:55 a.m., on Wednesday, October 27, 2004
- e. Invited and encouraged college students to participate in a rally and march for early voting, taking place on Wednesday, October 27, 2004.

**Commissioner Sauls:**

- a. Requested retroactive approval of the resolution presented to Dorothy Inman-Johnson and David Ludder. The Board approved.
- b. Requested that staff bring back an item regarding the purchase and sale of County-owned property, located at 6711 Thomasville Road. The item will need to be re-advertised.

**Commissioner Thael:**

- a. Appointed Osgood Johnson to the Fort Braden Recreation Council.
- b. Requested a resolution for Beth Lacivita, recognizing her efforts at the Tallahassee Trust for Historic Preservation.

**Commissioner Winchester:**

Commissioner Winchester moved, duly seconded by Commissioner Thael and carried unanimously, 7/0, to agenda an item regarding the City's program to provide a reduced rate or exemption on small business occupational licenses for citizens over 65.

There being no further business to come before the Board, the meeting adjourned at 11:17 p.m.

APPROVED: \_\_\_\_\_  
Cliff Thael  
Chairman

ATTEST:

\_\_\_\_\_  
Bob Inzer  
Clerk of the Circuit Court